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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/619,135 | 07/15/2003 | Gerald Wayne Hankins | NEV652 | 7535 |
| 34356 | 7590 | 01/31/2005 | EXAMINER | |
| ASHKAN NAJAFI, P.A. 6817 SOUTHPOINT PARKWAY SUITE 2301 JACKSONVILLE, FL 32216 | | | HOEY, ALISSA L | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3765 | |

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|-----------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/619,135 | HANKINS, GERALD WAYNE | |
| | Examiner | Art Unit | |
| | Alissa L. Hoey | 3765 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Response to Amendment***

1. This is in response to amendment received on 11/04/04. Claims 9, 15 and 19 have been amended, drawing and specification corrections overcome the objections from office action dated 08/04/04. Claims 1-19 have been finally rejected below.

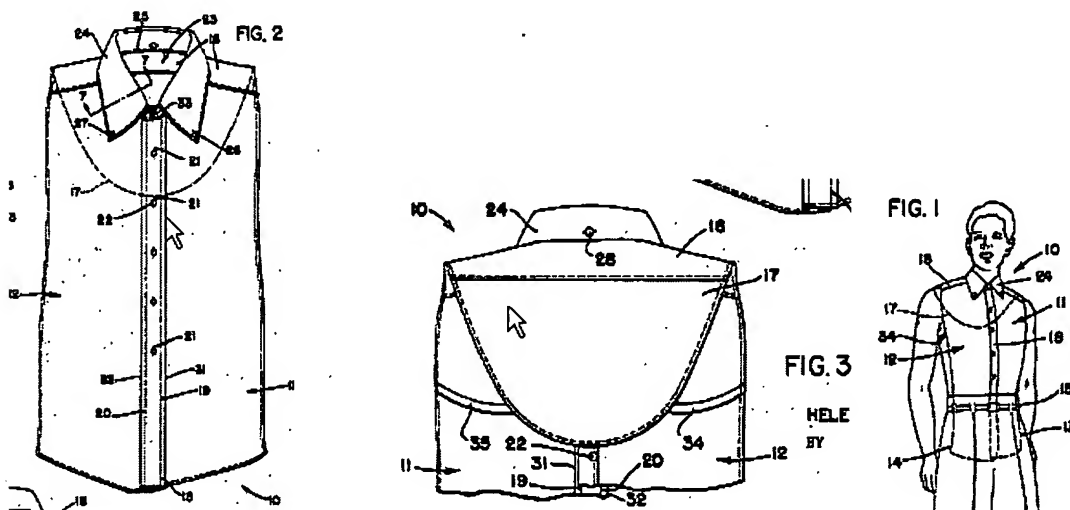
Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Gallagher (US 3,155,985).

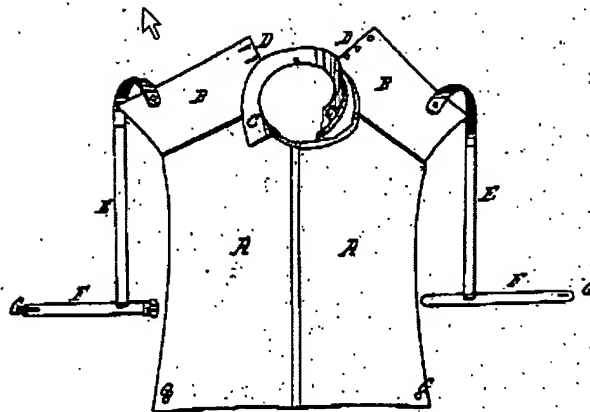


In regard to claims 1-5 and 8, Gallagher provides a dress shirt (10) comprising a collar portion (24), a front portion (11, 12), a back portion (16, 17) and a securing means (34, 35). The collar portion (24) fits around a neck of a user. The front portion (11, 12)

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has a centrally disposed longitudinal axis and includes a plurality of opposed outer edge portions spaced equally and outwardly from the longitudinal axis (figure 2). Further, the front portion (11, 12) has a top portion (16) connected to the collar portion (24) and a bottom portion (18) spaced from the top portion (16) and disposed generally about a waist of a user (figure 1). The back portion (16, 17) connected to the collar portion (24) and extending downwardly therefrom and having a bottom portion ending above the bottom portion (18) of the front portion (11, 12). Means for removably securing (34, 35) the back portion (16, 17) and the front portion (11, 12) in a stable position on a user. A plurality of inner edge portions (11, 12) aligned parallel to the longitudinal axis and overlap each other (19, 22). The inner edge portions include a plurality of slots (21) spaced from each other and a plurality of fastening members (22) spaced from each other. The slots (21) and the fasteners (22) are generally parallel to the longitudinal axis of the edge portions (11, 12) and interlock to each other (figure 2). The front portion (11, 12) has a width that is greater than a width of the bottom portion (18) thereof and the outer edge portions converge downwardly towards each other and end at the bottom portion (figure 2). The bottom portion has a substantially arcuate shape (figure 2, see bottom edge).

4. Claims 1, 6, 7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Tassie (US 5,019).



In regard to claims 1, 6 and 7, Tassie provides a dress shirt (A) comprising a collar portion (C), a front portion (A), a back portion (B) and a securing means (F). The collar portion (C) fits around a neck of a user. The front portion (A) has a centrally disposed longitudinal axis and includes a plurality of opposed outer edge portions spaced equally and outwardly from the longitudinal axis (A, A). Further, the front portion (A) has a top portion connected to the collar portion (C) and a bottom portion spaced from the top portion and disposed generally about a waist of a user (lines 22-31). The back portion (B) connected to the collar portion (C) and extending downwardly therefrom and having a bottom portion ending above the bottom portion of the front portion (A). Means for removably securing the back portion (B) and the front portion (A) in a stable position on a user. The securing means (F) comprising a first elastic strap (F) having a first end portion connected to one of the plurality of outer edge portions (G). The first strap having a second end portion (F) removably attached to another of the plurality of outer edge portions (G). The securing means further comprises a second elastic strap (E) having a first end portion connected to the back portion (B) and extending downwardly therefrom towards a waist of a person. Additionally, Tassie

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teaches that the first and second end portions of the first strap are connected to the front portion.

5. Claims 10-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gallagher in view of Tassie.

In regard to claims 10-19, Gallagher provides a dress shirt (10) comprising a collar portion (24), a front portion (11, 12), a back portion (16, 17) and a securing means (34, 35). The collar portion (24) fits around a neck of a user. The front portion (11, 12) has a centrally disposed longitudinal axis and includes a plurality of opposed outer edge portions spaced equally and outwardly from the longitudinal axis. Further, the front portion (11, 12) has a top portion (16) connected to the collar portion (24) and a bottom portion spaced from the top portion and disposed generally about a waist of a user (figure 1). The back portion (16, 17) connected to the collar portion (24) and extending downwardly therefrom and having a bottom portion ending above the bottom portion of the front portion. Means for removably securing (34, 35) the back portion (16, 17) and the front portion (11, 12) in a stable position on a user. A plurality of inner edge portion aligned parallel to the longitudinal axis and overlap each other. The inner edge portions include a plurality of slots (21) spaced from each other and a plurality of fastening members (22) spaced from each other. The slots (21) and the fasteners (22) are generally parallel to the longitudinal axis of the edge portions and interlocking to each other (figure 2). The front portion (11, 12) has a width that is greater than a width of the bottom portion thereof and the outer edge portions converge downwardly towards each other and end at the bottom portion (figure 2, see bottom edge of panels 11 and 12).

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The bottom portion has a substantially arcuate shape (figure 2, see bottom edge of panels 11, 12). Further, Gallagher teaches that the elastic securing straps (34, 35) can be attached to the front and back portions by any known fastening means (column 3, lines 33-41).

However, Gallagher fails to teach the securing means including a first strap having a first end portion connected to one of a plurality of outer edge portion and a second end portion removably attachable to another of the plurality of outer edge portions of the front portion. The securing means further comprises a second elastic strap having a first end portion connected to the back portion and extending downwardly therefrom and towards a waist of a person.

Tassie provides a dress shirt (A) comprising a collar portion (C), a front portion (A), a back portion (B) and a securing means (F). The collar portion (C) fits around a neck of a user. The front portion (A) has a centrally disposed longitudinal axis and includes a plurality of opposed outer edge portions spaced equally and outwardly from the longitudinal axis (A, A). Further, the front portion (A) has a top portion connected to the collar portion (C) and a bottom portion spaced from the top portion and disposed generally about a waist of a user (lines 22-31). The back portion (B) connected to the collar portion (C) and extending downwardly therefrom and having a bottom portion ending above the bottom portion of the front portion (A). Means for removably securing the back portion (B) and the front portion (A) in a stable position on a user. The securing means (F) comprising a first elastic strap (F) having a first end portion connected to one of the plurality of outer edge portions of the front panel (G). The first strap having a

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second end portion (F) removably attached to another of the plurality of outer edge portions of the front panel (G). The securing means further comprises a second elastic strap (E) having a first end portion connected to the back portion (B) and extending downwardly therefrom towards a waist of a person.

It would have been obvious to have provided the dress shirt of Gallagher with the securing means of Tassie, since the dress shirt of Gallagher having securing means that secure along the waist and down the center of the back would provide secure and proper placement of the dress shirt without having to worry about shifting of the dress shirt during wear and movement by the user.

Response to Arguments

6. Applicant's arguments filed 11/04/04 have been fully considered but they are not persuasive. Examiner has reviewed Applicant's arguments and rebuts them below.

1) Applicant argues that Gallagher (US 3,155,985) fails to teach the top portion of the front portion having a width greater than a width of the bottom of the front portion.

Examiner disagrees, since the bottom most portion of the front of Gallagher has a width that is less than the top portion width of the front. The front portion (12) of Gallagher has a wide v-shaped lower body portion, the tip of this portion is the bottom width of the front portion. The claims do not specify what the bottom portion consists of and the tip of the v-shaped portion is less than the width of the top front portion and therefore reads on the claim as written.

II) Applicant argues that no reference "discloses outer edge portions converging downwardly towards each other and ending at the bottom portion of the front portion and generally at the longitudinal axis".

Examiner disagrees since, Gallagher teaches outer edge portions that converge downwardly towards each other and end at the longitudinal axis of the front, bottom portion (figure 2). The outer edge portions are the portions that are in the shape of a wide v and the bottom portion is formed at the bottom most portion of the wide v-shape where the panels overlap at the longitudinal axis. The claims as constructed do not specify what the outer edge portions consist of so the examiner is interpreting the wide v-shaped edges as the outer edge portions. Figure 2, shows the edge portions converging downwardly towards each other and therefore reads on claims 5, 12 and 17 as constructed.

III) Applicant argues that Tassie (US 5,019) does not teach the first strap being connected to the outer edge of the front portion.

Examiner disagrees, since Tassie teaches strap (F) connected (G) to the outer edge of the front portion (A). The strap (F) is attached by (G) on the strap to (G) on the front portion (A) of the garment of Tassie (figures and lines 25-31). The strap of Gallagher (F) when buckled together forms one strap with both of it's ends connected to the front portion (A). Applicant does not require the first strap to be one continuous strip as long as the strip is coupled to create one continuous strip attached to the front portion at both it's ends it reads on the claims.

IV) Applicant argues that there is “no suggestion teaching or motivation in Gallagher to include Tassie’s straps”.

In response to Applicant’s argument’s that there is no suggestion to combine the references, the examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya*, 184 USPQ (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin*, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. *In re Bozek*, 163 USPQ 545 (CCPA 1969). In this case, it is the examiner’s position that one having ordinary skill in the art would have found it obvious to combine the dress shirt dickey of Gallagher with the securement means of Tassie, since Gallagher having securing means that secure along the waist and down the center of the back would provide secure and proper placement of the dress shirt dickey without having to worry about shifting of the lower portion during wear and movement by the user. The securing means of Gallagher being located only under the arms of the user allows for the front portion to easily move around at it’s lower portion especially if it is not tucked into a pant garment with a belt. The lower securing means of Tassie coupled with the back securing means would not only hold the back portion properly in place but provides securement to the lower portion of the front ensuring proper positioning during wear.

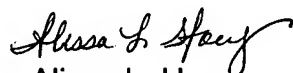
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Therefore, for the reasons stated above the arguments by the Applicant are not persuasive.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


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